

## MINUTES

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

8/1/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CIVIL 04-00723JMS-KSC  
CASE NAME: Milton K. Kaopua vs. Federal Fire Department; Gordon R. Englad, Acting Secretary, Department of the Navy  
ATTYS FOR PLA: Elbridge W. Smith  
ATTYS FOR DEFT: Edric Ching for R. Michael Burke  
Paul Sullivan  
INTERPRETER:

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JUDGE: J. Michael Seabright REPORTER: Sharon Ross

DATE: 8/1/2006 TIME: 9:35 - 10:20

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COURT ACTION: Motion to Dismiss or in the Alternative, for Summary Judgment:

Judge Seabright disclosed that he was employed at the U. S. Attorney's Office until May 16, 2005. Judge Seabright explained Canon 3 (C) (1) and 3 (C) (1) (e) of the Code of Conduct for United States Judges and 28 U.S.C. Section 455. Judge Seabright disclosed that he reviewed the entire case file in this matter and had no recollection, and did not believe, that he had contact with or participated in this matter while employed at the U. S. Attorney's Office. Assistant U. S. Attorney Edric Ching confirmed that Judge Seabright did not participate in this matter while employed at the U. S. Attorney's Office. Counsel for plaintiff, Mr. Smith and plaintiff stated that they had no objection to Judge Seabright presiding over this matter. The Court therefore found no basis for disqualification under the canon of ethics or the laws of the United States.

Defendant informed the Court that he is willing to waive 455(a).

Court found no basis for disqualification under 455(b) (3).

Arguments made.

Motion to Dismiss or in the Alternative, for Summary Judgment taken under advisement.

Submitted by: Dottie Miwa, Courtroom Manager

Arguments made.